

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 342

AN ACT to amend the Indiana Code concerning public safety.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-2-6.1-5.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5.7. As used in this chapter, "out-of-pocket loss" means an amount equal to the amount of reimbursement payable under IC 27-8-10-3 for each of the types of services and items provided to a victim as a result of the bodily injury or death upon which an application is based.**

SECTION 2. IC 5-2-6.1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. As used in this chapter, "violent crime" means the following:

- (1) A crime under the Indiana Code that is a felony of any kind or a Class A misdemeanor that results in bodily injury or death to the victim but does not include any of the following:
 - (A) A crime under IC 9-30-5 resulting from the operation of a vehicle other than a motor vehicle.
 - (B) Involuntary manslaughter resulting from the operation of a motor vehicle by a person who was not intoxicated (IC 35-42-1-4).
 - (C) Reckless homicide resulting from the operation of a motor vehicle by a person who was not intoxicated (IC 35-42-1-5).
 - (D) Criminal recklessness involving the use of a motor

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vehicle, unless the offense was intentional or the person using the motor vehicle was intoxicated (IC 35-42-2-2).

(E) A crime involving the operation of a motor vehicle if the driver of the motor vehicle was not charged with an offense under IC 9-30-5.

(2) A crime in another jurisdiction in which the elements of the crime are substantially similar to the elements of a crime that, if the crime results in death or bodily injury to the victim, would be a felony or a Class A misdemeanor if committed in Indiana. However, the term does not include any of the following:

(A) A crime in another jurisdiction resulting from operating a vehicle, other than a motor vehicle, while intoxicated.

(B) A crime in another jurisdiction with elements substantially similar to involuntary manslaughter resulting from the operation of a motor vehicle if the crime was committed by a person who was not intoxicated.

(C) A crime in another jurisdiction with elements substantially similar to reckless homicide resulting from the operation of a motor vehicle if the crime was committed by a person who was not intoxicated.

(D) A crime in another jurisdiction with elements substantially similar to criminal recklessness involving the use of a motor vehicle unless the offense was intentional or the person using the motor vehicle was intoxicated.

(E) A crime involving the operation of a motor vehicle if the driver of the motor vehicle was not charged with an offense under IC 9-30-5.

(3) A terrorist act.

SECTION 3. IC 5-2-6.1-15, AS AMENDED BY P.L.121-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) If ~~an unmarried~~ a victim of a violent crime dies as a result of the crime, the division may pay the reasonable expenses incurred for funeral, burial, or cremation.

(b) The division shall adopt guidelines to determine when the payment of expenses under subsection (a) is appropriate. In adopting guidelines under this subsection, the division shall consider the availability of other sources of compensation, including township assistance and federal programs.

SECTION 4. IC 5-2-6.1-17, AS AMENDED BY P.L.121-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) The division may not award compensation under this chapter unless the violent crime was reported to a law

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enforcement officer not more than ~~forty-eight (48)~~ **seventy-two (72)** hours after the occurrence of the crime.

(b) The division may not award compensation under this chapter until:

- (1) law enforcement and other records concerning the circumstances of the crime are available; and
- (2) any criminal investigation directly related to the crime has been substantially completed.

(c) If the crime involved a motor vehicle, the division may not award compensation under this chapter until an information or indictment alleging the commission of a crime has been filed by a prosecuting attorney.

SECTION 5. IC 5-2-6.1-21, AS AMENDED BY P.L.121-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) This section applies to claims filed with the division after December 31, 2005, **and before July 1, 2009.**

(b) This subsection does not apply to reimbursement for forensic and evidence gathering services provided under section 39 of this chapter. ~~As used in this chapter, "out-of-pocket loss" means an amount equal to the amount of reimbursement payable under IC 27-8-10-3 for each of the types of services and items provided to the victim as a result of the bodily injury or death upon which the application is based.~~

(c) An award may not be made unless the claimant has incurred an out-of-pocket loss of at least one hundred dollars (\$100).

(d) Subject to subsections (b) and (c), the division may order the payment of compensation under this chapter for any of the following:

- (1) Reasonable expenses incurred for necessary medical, chiropractic, hospital, dental, psychological, optometric, psychiatric, and ambulance services and prescription drugs and prosthetic devices that do not exceed the claimant's out-of-pocket loss.
- (2) Loss of income the:
 - (A) victim would have earned had the victim not died or been injured, if the victim was employed at the time of the crime; or
 - (B) parent, guardian, or custodian of a victim who is less than eighteen (18) years of age incurred by taking time off work to care for the victim.

A claimant seeking reimbursement under this subdivision must provide the division with proof of employment and current wages.

- (3) Reasonable emergency shelter care expenses, not to exceed the expenses for thirty (30) days, that are incurred for the claimant or a dependent of the claimant to avoid contact with a person who

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committed the violent crime.

(4) Reasonable expense incurred for child care, not to exceed one thousand dollars (\$1,000), to replace child care the victim would have supplied had the victim not died or been injured.

(5) Loss of financial support the victim would have supplied to legal dependents had the victim not died or been injured.

(6) Documented expenses incurred for funeral, burial, or cremation of the victim that do not exceed four thousand dollars (\$4,000). The division shall disburse compensation under this subdivision in accordance with guidelines adopted by the division.

(7) Other actual expenses resulting from the bodily injury or death of the victim, including costs of mental health care, not to exceed two thousand dollars (\$2,000) for the immediate family of a homicide or sex crime victim, and any other actual expenses that the division determines reasonable.

(e) If a health care provider accepts payment from the division under this chapter, the health care provider may not require the victim to pay a copayment or an additional fee for the provision of services.

(f) A health care provider who seeks compensation from the division under this chapter may not simultaneously seek funding for services provided to a victim from any other source.

SECTION 6. IC 5-2-6.1-21.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 21.1. (a) This section applies to claims filed with the division after June 30, 2009.**

(b) This subsection does not apply to reimbursement for forensic and evidence gathering services provided under section 39 of this chapter.

(c) An award may not be made unless the claimant has incurred an out-of-pocket loss of at least one hundred dollars (\$100).

(d) Subject to subsections (b) and (c), the division may order the payment of compensation under this chapter for any of the following:

(1) Reasonable expenses incurred within one hundred eighty (180) days after the date of the violent crime for necessary:

(A) medical, chiropractic, hospital, dental, optometric, and ambulance services;

(B) prescription drugs; and

(C) prosthetic devices;

that do not exceed the claimant's out-of-pocket loss.

(2) Loss of income:

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(A) the victim would have earned had the victim not died or been injured, if the victim was employed at the time of the violent crime; or

(B) the parent, guardian, or custodian of a victim who is less than eighteen (18) years of age incurred by taking time off from work to care for the victim.

A claimant seeking reimbursement under this subdivision must provide the division with proof of employment and current wages.

(3) Reasonable emergency shelter care expenses, not to exceed the expenses for thirty (30) days, that are incurred for the claimant or a dependent of the claimant to avoid contact with a person who committed the violent crime.

(4) Reasonable expense incurred for child care, not to exceed one thousand dollars (\$1,000), to replace child care the victim would have supplied had the victim not died or been injured.

(5) Loss of financial support the victim would have supplied to legal dependents had the victim not died or been injured.

(6) Documented expenses incurred for funeral, burial, or cremation of the victim that do not exceed five thousand dollars (\$5,000). The division shall disburse compensation under this subdivision in accordance with guidelines adopted by the division.

(7) Outpatient mental health counseling, not to exceed three thousand dollars (\$3,000), concerning mental health issues related to the violent crime.

(8) Other actual expenses related to bodily injury to or the death of the victim that the division determines are reasonable.

(e) If a health care provider accepts payment from the division under this chapter, the health care provider may not require the victim to pay a copayment or an additional fee for the provision of services.

(f) A health care provider who seeks compensation from the division under this chapter may not simultaneously seek funding for services provided to a victim from any other source.

(g) The director may extend the one hundred eighty (180) day compensation period established by subsection (d)(1) for a period not to exceed two (2) years after the date of the violent crime if:

(1) the victim or the victim's representative requests the extension; and

(2) medical records and other documentation provided by the

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attending medical providers indicate that an extension is appropriate.

(h) The director may extend the one hundred eighty (180) day compensation period established by subsection (d)(1) for outpatient mental health counseling, established by subsection (d)(7), if the victim:

- (1) was allegedly a victim of a sex crime (under IC 35-42-4) or incest (under IC 35-46-1-3);
- (2) was under eighteen (18) years of age at the time of the alleged crime; and
- (3) did not reveal the crime within two (2) years after the date of the alleged crime.

SECTION 7. IC 5-2-6.1-39, AS AMENDED BY P.L.41-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 39. (a) When a hospital acting under IC 16-21-8 provides a forensic medical exam to an alleged sex crime victim, the hospital shall furnish the forensic medical exam described in IC 16-21-8-6 without charge. The victim services division of the Indiana criminal justice institute shall reimburse a hospital for its costs in providing these services and shall adopt rules and procedures to provide for reasonable reimbursement. A hospital may not charge the victim for services required under this chapter, despite delays in reimbursement from the victim services division of the Indiana criminal justice institute.

(b) When a hospital acting under IC 16-21-8 provides a forensic medical exam to an alleged sex crime victim, the hospital may also furnish additional forensic services to an alleged sex crime victim who cooperates with law enforcement under IC 16-21-8-5(b); However, the hospital shall furnish the additional forensic services, if furnished, shall be furnished without charge. The victim services division of the Indiana criminal justice institute shall reimburse a hospital for its costs in providing these services and may adopt rules and procedures to provide for reasonable reimbursement. A hospital may not charge the victim for services required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

(c) When a hospital acting under IC 16-21-8 provides additional forensic services to an alleged sex crime victim who does not cooperate with law enforcement under IC 16-21-8-5(b); the hospital may, with the victim's consent, seek reimbursement directly from the victim or any third party payer for any additional forensic services rendered by the hospital.

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~~(d)~~ (c) Costs incurred by a hospital or other emergency medical facility for the examination of the victim of a sex crime (under IC 35-42-4) not covered under IC 16-21-8 or incest (under IC 35-46-1-3), if the examination is performed for the purposes of gathering evidence for possible prosecution, may not be charged to the victim of the crime.

~~(e)~~ (d) When a licensed medical service provider not covered by subsection (a) or (b) elects to provide a forensic medical exam to an alleged victim of one (1) or more of the sex crimes listed in IC 16-21-8-1(b), the medical service provider shall furnish the exam without charge. The victim services division of the Indiana criminal justice institute shall reimburse a medical service provider for costs in providing forensic medical exams. A medical service provider may not charge the victim for a forensic medical exam required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

~~(f)~~ (e) When a licensed medical service provider not covered by subsection (a) or (b) elects to provide additional forensic services to an alleged sex crime victim, ~~who cooperates with law enforcement under IC 16-21-8-5(b);~~ the medical service provider shall furnish the services without charge. The victim services division of the Indiana criminal justice institute shall reimburse a medical service provider for costs in providing the additional forensic services. A medical service provider may not charge the victim for services required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

~~(g)~~ When a medical service provider acting under IC 16-21-8 provides additional forensic services to an alleged sex crime victim who does not cooperate with law enforcement under IC 16-21-8-5(b); the medical service provider may, with the victim's consent, seek reimbursement directly from the victim or any third party payer for additional forensic services rendered by the medical service provider.

~~(h)~~ (f) The victim services division of the Indiana criminal justice institute is not required to reimburse a medical service provider for costs in providing additional forensic services unless the following conditions are met:

- (1) The victim is at least eighteen (18) years of age.
- (2) If the victim is less than eighteen (18) years of age, a report of the sex crime must be made to child protective services or a law enforcement officer.
- (3) The sex crime occurred in Indiana.

If the division finds a compelling reason for failure to comply with the

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requirements of this section, the division may suspend the requirements of this section.

(~~fi~~) **(g)** Costs incurred by a licensed medical service provider for the examination of the victim of a sex crime (under IC 35-42-4) not covered under IC 16-21-8 or incest (under IC 35-46-1-3) may not be charged to the victim of the crime if the examination is performed for the purposes of gathering evidence for possible prosecution.

SECTION 8. IC 34-23-2-1, AS AMENDED BY P.L.3-2008, SECTION 242, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a) This section does not apply to an abortion performed in compliance with:**

(1) IC 16-34; or

(2) IC 35-1-58.5 (before its repeal).

(~~af~~) **(b)** As used in this section, "child" means an unmarried individual without dependents who is:

(1) less than twenty (20) years of age; or

(2) less than twenty-three (23) years of age and is enrolled in a postsecondary educational institution or a career and technical education school or program that is not a postsecondary educational program.

The term includes a fetus that has attained viability (as defined in IC 16-18-2-365).

(~~bf~~) **(c)** An action may be maintained under this section against the person whose wrongful act or omission caused the injury or death of a child. The action may be maintained by:

(1) the father and mother jointly, or either of them by naming the other parent as a codefendant to answer as to his or her interest;

(2) in case of divorce or dissolution of marriage, the person to whom custody of the child was awarded; and

(3) a guardian, for the injury or death of a protected person.

(~~cf~~) **(d)** In case of death of the person to whom custody of a child was awarded, a personal representative shall be appointed to maintain the action for the injury or death of the child.

(~~df~~) **(e)** In an action brought by a guardian for an injury to a protected person, the damages inure to the benefit of the protected person.

(~~ef~~) **(f)** In an action to recover for the death of a child, the plaintiff may recover damages:

(1) for the loss of the child's services;

(2) for the loss of the child's love and companionship; and

(3) to pay the expenses of:

(A) health care and hospitalization necessitated by the wrongful act or omission that caused the child's death;

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- (B) the child's funeral and burial;
- (C) the reasonable expense of psychiatric and psychological counseling incurred by a surviving parent or minor sibling of the child that is required because of the death of the child;
- (D) uninsured debts of the child, including debts for which a parent is obligated on behalf of the child; and
- (E) the administration of the child's estate, including reasonable attorney's fees.

~~(f)~~ **(g)** Damages may be awarded under this section only with respect to the period of time from the death of the child until:

- (1) the date that the child would have reached:
 - (A) twenty (20) years of age; or
 - (B) twenty-three (23) years of age, if the child was enrolled in a postsecondary educational institution or in a career and technical education school or program that is not a postsecondary educational program; or
- (2) the date of the child's last surviving parent's death;

whichever first occurs.

~~(g)~~ **(h)** Damages may be awarded under subsection ~~(e)(2)~~ **(f)(2)** only with respect to the period of time from the death of the child until the date of the child's last surviving parent's death.

~~(h)~~ **(i)** Damages awarded under subsection ~~(e)(1); (e)(2); (e)(3)(C);~~ **(f)(1), (f)(2), (f)(3)(C), and (e)(3)(D) (f)(3)(D)** inure to the benefit of:

- (1) the father and mother jointly if both parents had custody of the child;
- (2) the custodial parent, or custodial grandparent, and the noncustodial parent of the deceased child as apportioned by the court according to their respective losses; or
- (3) a custodial grandparent of the child if the child was not survived by a parent entitled to benefit under this section.

However, a parent or grandparent who abandoned a deceased child while the child was alive is not entitled to any recovery under this chapter.

(j) This section does not affect or supersede any other right, remedy, or defense provided by any other law.

SECTION 9. [EFFECTIVE JULY 1, 2009] IC 34-23-2-1, as amended by this act, applies only to a cause of action that accrues after June 30, 2009.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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